

### **REMARKS**

Favorable consideration of the subject application is respectfully requested in view of the above amendments and following remarks. This amendment and reply is responsive to the Restriction Requirement action mailed November 4, 2008. A Petition for an Extension of Time of two months and the requisite fee accompany this filing.

Applicants elect to prosecute claims directed to a console unit having certain structures and/or functions, identified by the Examiner as invention III, to which claims 39-41 were drawn.

Claims 2-5, 16, 17, 19, 23, 29, and 32-38 are cancelled as a result of the election to prosecute claims directed to a console unit, without prejudice to applicants' ability to present and prosecute these or similar claims in connection with a related patent application.

Claim 39 has been amended for purposes of clarification, to substitute the term "operating head" for "cutter assembly," and to specify that the console unit additionally has a display capable of displaying information concerning operation conditions and feedback from the material removal site. Previously pending claims 9, 10, 28, 30 and 31 have been amended to recite a console unit and depend from claim 39. Claims 40 and 41 have been amended for purposes of consistency in view of the amendment to claim 39. New claims 43-45 have been introduced to specify that the means for calculating and implementing automated operating conditions comprises a plurality of preset, stored routines, a software program, and hardware, respectively. These aspects of applicants' claimed invention are recited in the application, as published, at paragraph 0034.

Newly added independent claims 46 and 47 recite additional features of a console unit incorporating a display and capable of displaying specific information relating to operating conditions and feedback from the material removal site. These aspects of applicants' claimed invention are recited in the application, as published, at paragraphs 0035, 0036 and 0041, for example. Claims 30 and 31 have been amended to depend from the newly added claims. Claim 42 has been amended to depend from newly added claims 46 or 47. Claims 48-54 are newly presented dependent claims. Claim 48 specifies that the console unit additionally comprises an aspiration pump (See, e.g., specification as published at paragraphs 0038, 0039); claim 49

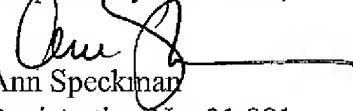
specifies that the aspiration pump provides a specified aspiration rate (See, e.g., specification as published at paragraph 0037); claim 50 specifies that the console unit displays the elapsed time of operation of the aspiration pump (See, e.g., specification as published at paragraph 0041); claim 51 specifies that the console unit displays the volume of aspirate withdrawn (See, e.g., specification as published at paragraph 0041); claim 52 specifies that the console displays the fluid flow at the material removal site (See, e.g., specification as published at paragraph 0035); and claims 53 and 54 specify, respectively, that the console unit has a control switch for activating and shutting down an aspiration pump, and a control switch for activating and shutting down an infusate system (See, e.g., specification as published at paragraph 0041]. Claims 9, 10, 28, 30, 31 and 39-54 are pending as a result of this amendment; claims 39, 46 and 47 are in independent format. None of the amendments is presented for reasons of patentability; the amendments therefore do not give rise to prosecution history estoppel.

Applicants submit that the newly added claims are supported by the application as it was originally filed and that they are not independent and distinct from the invention elected for prosecution and set out in claim 39. Favorable consideration of the pending claims is respectfully solicited.

### *Conclusion*

Applicants believe that the pending claims are now in condition for allowance. Early consideration and allowance of all the pending claims are respectfully requested.

Respectfully submitted,

  
Ann Speckman  
Registration No. 31,881

Date: February 4, 2009

**SPECKMAN LAW GROUP PLLC**

20601